



SUMMARY MINUTES

ABAG Power Special Executive Committee Teleconference Meeting 2005-02

April 1, 2005

Metro Center, 101 8th Street, Oakland, CA 94607

WELCOME AND INTRODUCTIONS

Chairman Richard Averett opened the meeting with introductions at 11:00 am.

Committee Representatives via Teleconference

Richard Averett, Chair
Ed Buonaccorsi
Steve Sprotte, Vice-Chair

Jurisdictions

City of San Carlos
City of Santa Rosa
City of Union City

Committee Representatives Absent

Mark Akaba
Terry Mann
Jennifer Mennucci

City of Vallejo
County of Contra Costa
Golden Gate Bridge District

Guests/Public Present

Scott Wentworth (present at ABAG location)

City of Oakland

Staff Present

Joseph Chan
Jerry Lahr
Vina Maharaj
Kenneth Moy

ABAG
ABAG POWER
ABAG POWER
ABAG

PUBLIC COMMENTS/ANNOUNCEMENTS

There were no public comments.

City of Oakland's Request for Changes to Gas Agreement

The Executive Committee at their February 16, 2005 meeting had requested staff to prepare a draft response to the City of Oakland's Comments on the Revised Natural Aggregation Agreement. The response was to include explanations of the Committee decisions made at their February 16, 2005 meeting. Lahr referred members to Agenda Item #3, Attachment A, a memo, addressed from the Executive Committee to Scott Wentworth of the City of Oakland.

**City of Oakland's Ability to Extend the Gas Aggregation Agreement**

Lahr stated that under the City of Oakland's current agreement, if the City doesn't give ABAG POWER their notice of cancellation by June 1st, the contract automatically terminates.

Scott Wentworth requested that the Executive Committee allow the City of Oakland the ability to extend the deadline for notice of renewal for up to 60 days.

Draft Response Memo dated April 6, 2005 (is made an attachment to this minutes)

Discussions were held on listed Items 1 – 10 which included City of Oakland's requested changes to the agreement and the Executive Committee's responses.

The following changes were made to Items listed below:

Item No. 3

Wentworth made a request that the following be added after "policy level approval"
"from the Executive Committee or Board of Directors".

Item No. 3 to read as follows:

"ABAG POWER, as a joint powers agency, can not borrow money without policy level approval from the Executive Committee or Board of Directors."

Item No. 6

To add a point c. to the response indicating that none of ABAG POWER's members have an arrangement with a third party surety to pay program liabilities. ABAG POWER has considered the matter and has decided as a matter of policy that it will not do so for any member.

Item No. 7

Chairman Averett suggested elaborating on the Executive Committee's desire regarding increased access to billing data and that ABAG POWER will take this into consideration when reviewing the proposals for these services.

Item No. 10

Suggestion was made to revise the language of the response to indicate that in order to achieve ABAG POWER Program goals of price stability and cost savings, multiyear gas supply contracts must be part of ABAG POWER's supply portfolio.

Motion was made by Sprutte/S/Buonaccorsi/C/3:0:0 as follows:

- To adopt the responses as presented by staff, with the suggested changes to City of Oakland's comments on the Revised Natural Gas Aggregation Agreement and;
- To extend the deadline for the City of Oakland's notice of renewal to July 31, 2005.



MEETING RESCHEDULE

Motion was made by Sprotte/S/Buonaccorsi/C/3:0:0 to cancel the April 20th meeting. Monday, May 23rd, 12:00 to 2:00 p.m. was tentatively set for the next meeting of the Executive Committee.

ADJOURNMENT

Chairman Averett adjourned the meeting at 12:10 p.m.

/vm

*Example of a motion – *[Member No. 1/S/Member No. 2/roll call vote/C/8:0:0]* means Member No.1 motions, seconded by Member No.2, after roll call vote, motion carries, 8 = “yes” votes, 0 = “no” votes and 0 = abstentions.

MEMORANDUM

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area

Agenda Item #3 Attachment A



DT: April 1, 2005

TO: Scott Wentworth, City of Oakland

FM: ABAG POWER Executive Committee

RE: **Response to City of Oakland's Comments on the Revised Natural Gas Aggregation Agreement**

On February 16, 2005 the ABAG POWER Executive Committee was presented with a series of questions and comments from the City of Oakland regarding its participation in the Gas Aggregation Program, and in particular the City requested a number of changes to the revised Natural Gas Aggregation Agreement.

Below is a list of the requested changes as presented to the Committee, along with our responses.

1. Add specific criteria for Executive Committee actions for:
 - a. Dissolving all or part of the Natural Gas Program,
 - b. Mid-term exit at member's option that does not create risk for the remaining members.
 - c. Mid-term exit at member's option that does not create cost for the remaining members.

Response: Executive Committee action in such unusual or extreme conditions will, of necessity, be case specific. Therefore, ABAG POWER can not contractually obligate itself to a finite set of criteria for such action.

In general, dissolution of the Natural Gas Program will likely be in response to market and regulatory conditions that create unacceptable risks for the group as a whole. One can anticipate that dissolution will occur in a manner designed to minimize the group risk.

In general, an individual member's request to leave the program prior to the expiration of its contractual obligation would likely be granted if another entity eligible to join the group, or an existing member, agreed to assume the departing member's contractual responsibilities. Or, if the departing member agreed to compensate the remaining members for any financial risk associated with the entity's departure.

ABAG POWER's management of all natural gas aggregation agreements (including the one with the City of Oakland) is subject to policy oversight by ABAG POWER's policy bodies - the Board of Directors and the Executive Committee. ABAG POWER's Bylaws and joint powers agreement (provided to the City) have procedural and substantive provisions designed to ensure equitable treatment of the individual interests of the members of ABAG POWER commensurate with the interests of the group as a whole. The exigent circumstances that concern the City will be dealt with at the policy level - most likely at the Executive Committee. The Executive Committee has

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previously extended an invitation - which remains open - to the City to become a voting member of the Committee and assist in resolving issues raised by these circumstances.

The City of Oakland's recommendation that an "Operations Manual" be more formally developed is noted, and will be discussed in more detail at future meetings.

2. Declare which types of riders can be:

- a. Approved by the Program Manager, or other person, without the approval of the Executive committee;
- b. Approved by the Executive Committee;
- c. Approved by the Board without concurrence from the individual participating member; or
- d. Approved by the ABAG POWER Board with concurrence from the affected member.

Response: ABAG POWER has not been asked to execute any rider during the operation of the program which has been in existence since 1996. The requirement that ABAG POWER have such authority is a regulatory requirement. Prudent business practice would have staff ask for approval from a policy committee prior to executing a rider if the rider will have a materially adverse effect on the group or an individual member. It is not practical for us to attempt to anticipate the types of riders that may be required.

As stated in the response above, ABAG POWER's management is subject to policy oversight by ABAG POWER's policy bodies - the Board of Directors and the Executive Committee. The Bylaws and joint powers agreement have procedural and substantive provisions designed to ensure equitable treatment of the individual interests of the members of ABAG POWER commensurate with the interests of the group as a whole.

3. Declare limits on ABAG POWER's authority to borrow money.

Response: ABAG POWER, as a joint powers agency, can not borrow money without policy level approval. ABAG POWER has no plans to borrow money.

4. Modify Paragraph 15 to prohibit oral approvals, except for voice votes at Board meetings.

Response: Modifying paragraph 15 to prohibit oral approvals can be allowed on a case-by-case basis, at the agencies request, as this will not cause harm to any other member of the program. We agree to modify this for the City of Oakland.

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5. Add an attachment to enhance the clarity of the payment calculation method, including:
 - a. Circumstances when actual cost or levelized cost is the basis for payment;
 - b. Process for changing the levelized payment structure that includes Board approval for changes that
 - c. Calculation method for members who have declared that they will exit the program.
 - d. True up calculation for members final month after leaving the program.

Response: We do not desire to create an additional attachment as an official part of the Agreement. However, we are happy to provide the following clarification;

- a. Currently ABAG POWER is providing a monthly bill to all members of the Gas Program based on an estimate of the agency's annual cost divided by twelve (i.e. levelized billing). This was primarily instituted as an operational method to manage cash flow in the program. However, members have generally viewed this as a way to add stability to their monthly costs.
- b. The Executive Committee maintains the authority to change the billing methodology at any time.
- c. Members that declare their intent to exit the program will generally have their bills calculated as all other members until they officially depart the program. Members exiting the program will have their accounts returned to the default provider (currently PG&E) in accordance with established CPUC procedures. This generally involves ABAG POWER sending a Direct Access Service Request (DASR) to PG&E noting the changes in service providers. PG&E will then begin providing service to each individual account at its next scheduled meter read date. ABAG POWER will attempt to have the transfer occur as soon as possible following the official date the change goes into effect, however there is often up to a one month delay in the process. ABAG POWER will continue to bill the account until all usage and billing information has been processed through the time that each account was with the ABAG POWER program. After the end of the fiscal year in which the last billing data is processed, a true-up will be conducted to ensure that the member was billed only for costs based on its actual usage during the year. Any adjustment will then be refunded to, or collected from, the member. If ABAG POWER anticipates a significant delay (e.g. greater than 3 months) between the final billing data being received from PG&E and the final true-up adjustment, the member may request ABAG POWER provide a reasonable estimate of the true-up adjustment be advanced.
- d. See "c" above.

As suggested, these policies could become part of a future "Operations Manual."

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6. Create the option for the City of Oakland to include a payment bond in the agreement. The bond would be paid by ABAG POWER, with its cost included in the City of Oakland's levelized payment.

Response: A payment bond in which ABAG POWER is obligated to reimburse the surety for any draws on the bond does not seem to make economic sense. Please also be informed of the following:

- a. ABAG, which acts as the factotum for ABAG POWER, has a public officials bond covering employees with potential access to ABAG POWER funds.
- b. All payments by ABAG POWER members are made into a bank lockbox account with authorizations for payments only to gas vendors and service providers.

7. Provide electronic files with copies of billing and consumption data to Oakland in either a Microsoft Excel spreadsheet or other format that the Utility Manager program can automatically import. These files would include account number, beginning read date, end read date, winter therm usage, and summer therm usage. Oakland would still pay our bills using the levelized payment process. This information would be for tracking actual costs and consumption, as well as confirming the accuracy of the levelized payments.

Response: The current contract with our billing agent does not include a provision that they provide actual billing and consumption data in a spreadsheet every month to members. However, the billing agent can, and does, provide billing and usage data upon request. Staff would be happy to work with the City and the billing agent to try to come up with a reasonable method to get the City the data you desire, and this process could be included in a future Operations Manual. Concurrently, ABAG POWER has just issued an RFP for new billing agent services to be provided beginning in July of this year. In reviewing the proposals for these services we will take into consideration the City of Oakland's desire to have increased access to its billing data.

8. Modify the language of Paragraph 4, 2nd sentence from "facilities listed in Exhibit A distribute" to read "facilities listed in Exhibit A receive all of their natural gas from ABAG POWER and that they are not serviced by another core transport..."

Response: The following alternate language would be acceptable for the 2nd sentence in paragraph 4: "Public Agency represents and warrants that all facilities listed in Exhibit A utilize natural gas for the benefit of Public Agency, and that none of the facilities will be serviced by another core transportation agent as of the Start Date as defined in Paragraph 9.5."

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9. Modify Paragraph. G4 of Exhibit B to create a specific time limit.

Response: The following alternate language would be acceptable for the first sentence in paragraph G(4): “Within 30 days of execution of the Agreement, ...”

10. Provide the City of Oakland an option to stay in the program on a year-to-year basis under the current agreement.

Response: It is possible in the future that the program will develop a one-year option available to all members. This is not contemplated in the near term as we believe that the program would need to be larger to make this viable. We do not desire to make this option available to the City of Oakland alone.

DRAFT